



**MUSSELSHELL COUNTY
LOCAL GOVERNMENT REVIEW COMMISSION
FINAL REPORT**

August 9, 2016

REVIEW COMMISSION MEMBERS:

**Sue Olson (Chair)
Debi Adolph
Ron Solberg
Robert Goffena (Ex-officio)**

FINAL REPORT
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I. LETTER TO THE CITIZENS OF MUSSELHELL COUNTY

To the Citizens of Musselshell County,

The Musselshell County Local Government Review Commission elected by the voters on November 4, 2014, present this final report to you, the citizens of this county.

The purpose of the study commission, as defined in state law, is "to study the existing form and powers of a local government and procedures for delivery of local government services and to compare them with other forms available under the laws of the state." After completing these two phases of the study, it is the responsibility of the study commission to submit a final report recommending no change, proposing an amendment to the existing form of government, or offering an alternative form of government to the qualified electors.

In every phase of this review this study commission sought advice and information from as many people in the county as possible. Opinions and recommendations were solicited from County officials, community organizations, and citizens. All meetings of the study commission were open to the public. Commission members appeared before community organizations to explain the work of the commission and also to hear the viewpoints, ideas, and concerns of those present. Nine public hearings were held to gather suggestions, concerns, and ideas (one in Melstone, one in Dean Creek, and seven in Roundup) as well as discuss the final report.

Our recommendations reflect the thoughts and opinions of those who participated in public hearings, those who attended our regular meetings, and any additional independent efforts of this study commission. In this final report we present our unanimous recommendation for an alternative form of government that we feel will provide the governmental services expected by the people both today and in the future. Our concern has been to provide a form of government that will be responsive to local citizens and provide the opportunity for devising solutions to local problems.

We feel the citizens of Musselshell County can achieve these goals by adopting the Commission form with non-partisan elections to replace the present partisan-based elections. We also have a list of strong recommendations that we will present to the County Commissioners including the addition of an advisory Community Council with volunteers from each district. The question of adopting this alternative form of government will be on the ballot November 8, 2016.

Respectfully submitted,

The block contains three handwritten signatures in blue ink over three horizontal lines. The first signature is "Steve M. Dixon", the second is "Deborah Celoloph", and the third is a stylized signature that appears to be "WJ".

Local Government Study Commissioners

II. REPORT SUMMARY

A. Findings of the Study Commission:

After gathering public comment and thoroughly studying the other forms of government available to the counties under state law, the Musselshell County Study Commission concluded the findings listed below. Public comment was received from commissioners and numerous citizens privately and before, during, and after public hearings (attended by 41 citizens).

- 1) After reviewing the Plan of Government certified by the 1986 Study Commission, we found that it incorrectly identified several sub-options in that plan that are not allowed under the Elected County Official Form of Government. The Study Commission is now certifying the current Form and Plan of Government correctly. This Certification represents no change in the way Musselshell County currently operates, it simply correctly identifies the current Plan of Government.
- 2) There was great interest in non-partisan elections, so that voters could select the representative based more on merit and skills than party affiliation. Non-partisan elections are not allowed within the current Elected County Official form, but are allowed in the Commission form of government.
- 3) Even though there was interest expressed by voters in the Commission-Executive and Commission-Manager form of government, the Study Commission decided that at the present time the county didn't have the money to hire this type of professional.
- 4) Citizen concerns included a need for:
 - a) More transparency in general from the County government, but especially regarding the budget, road maintenance and gravel list, specific times on the agenda for Monday Commission meetings, more detailed minutes, and increased information sharing (preferably online on an improved County website),
 - b) More communication with the public from the County Commissioners,
 - c) More accountability and follow-through on action items from the County Commissioners, and
 - d) Long-term planning particularly for disaster and emergency planning.

B. Recommendations:

In view of the above findings and to address these needs, the Study Commission unanimously recommends that Musselshell County should adopt the Commission form of government with the sub-option to include non-partisan elections.

The question on the form of government and the sub-option shall be submitted to the voters of Musselshell County on November 8, 2016.

The Study Commission also unanimously agrees to strongly advise the Musselshell County Commissioners to implement and **maintain** the following recommendations:

- 1) To immediately form an advisory Community Council with at least one representative from each county commissioner district. One of the legal abilities that the County Commissioners currently have is the option of forming one or more Community Councils (7-3-417, MCA). This Community Council would meet at least quarterly maintaining regular dialogue with the commissioners. Their primary purpose would be to keep the commissioners more informed as to the needs and interests of the residents of their districts. The Council would also follow-up with the commissioners on proposed resolutions to those issues until completed to the citizens' satisfaction. The Council would be comprised of a volunteer(s) from each of the three districts that would be paid mileage, but no wages.

Citizen testimony at the public meetings indicated a strong concern about the lack of transparency, accountability, and communications with the public on most matters. Also of concern was the lack of citizen input in county government decisions and actions. This Council would serve to help address these needs and concerns.

- 2) To hire a well-qualified County Administrative Assistant with strong organization, communication, writing, and Human Resource skills who could help the Commissioners be more productive with day-to-day business. This employee could assist with thorough electronic and written communications with the public, Human Resource issues, grant writing, and agenda preparation that considers long-term planning goals and needed follow-up on proposed actions. The Administrative Assistant could also work with the Community Council to insure needs are being addressed on the agenda in a timely manner.
- 3) To increase communications with the public through media and electronic means. There were specific requests made regarding ease of access of information, especially online, for:
 - More detailed agenda with times, topics, and resolutions being considered (including follow-up on action items from previous meeting). This way if community members want to be present, then they know when to attend the Monday meetings.
 - More detailed minutes available online with complete resolutions and full road reports (include action items with projected timelines and person responsible for action).
 - Long-term planning, especially emergency and disaster plans.
 - Long-term road maintenance and improvement plans with timelines and responsible personnel named. These plans to include emergency outlets.
 - A more user-friendly website to enable communication and electronic access to documents.
- 4) To increase transparency of county government especially financially. There were specific requests made regarding ease of access, especially online, for the following information: county budget and financials, road priority list, road maintenance policies with criteria for setting priorities clearly defined, and detailed road maintenance plan.
- 5) To increase accountability of county government include all actions items in minutes and long-term planning documents with exact timelines, personnel responsible, and tasks identified.

C. Key Provision of the Proposed Amendments:

1) Under the 1972 State Constitution, the potential to change the structure of the form of government is allowed by systematic review if the voters deem it as necessary and needed. The Review Commission assessed the current Elected County Official form of government and found it lacking the necessary ability to be customized to the need of Musselshell County. For example the Elected County Official form does not allow for non-partisan elections which has been of great interest to the vast majority of citizens that attended review commission meetings and in past Review Commissions' assessments.

2) The sub-option of non-partisan elections is allowed by state law under the Commission form of government as authorized in 7-3-413, MCA.

D. Comparison of the Present and Proposed Plans of Government:

The present plan of government (Appendix A) doesn't allow non-partisan elections and provides for optional community councils by ordinance from the County Commissioners.

The proposed plan of government (Appendix B), provides for non-partisan elections and optional community councils by ordinance from the County Commissioners.

All other structures and functions of the Musselshell County government will remain unchanged.

III. COMPARISON OF THE EXISTING PLAN OF GOVERNMENT AND THE PROPOSED PLAN OF GOVERNMENT

A. Existing Plan - Description of General Characteristics

In Montana the statutory Elected County Official form has three commissioners who are nominated by district (where they live) and who are elected at large by partisan election. Once elected each Commissioner serves a 6-year term and the commissioners' terms overlap (so every 2 years an election is held for Commissioner).

Other elected officials have 4-year terms and, as defined by state law, include the county attorney, sheriff, clerk and recorder, clerk of district court, treasurer, surveyor, superintendent of schools, assessor, corner, public administrator, and auditor.

Commissioners perform executive and legislative duties, however they have limited law-making ability. All 3 commissioners have equal leadership responsibilities and power. One Commissioner serves as the presiding officer for 1-2 years, but has no extra authority. A majority vote (2 affirmative votes) is required to make decisions, approve policy, and commit the county to any course of action. For more details, see Appendix A.

B. Proposed Plan - Description of General Characteristics

The proposed Commission form of government is almost identical to the existing form with the exception that it allows for non-partisan elections. The proposed Commission form has three commissioners who are nominated by district and who are elected at large by **non-partisan** election. Each Commissioner serves a 6-year term and the commissioners' terms overlap. Other elected officials have 4-year terms and are the same as the existing form. The Commissioners have the power to consolidate two or more of these offices.

Commissioners perform executive and legislative duties, and have limited law-making ability. All three commissioners have equal leadership responsibilities and power. One Commissioner serves as the presiding officer for 1-2 years, but has no extra authority. A majority vote is required to make decisions, approve policy, and commit the county to any course of action.

The adoption of the Commission form of government with the non-partisan sub-option is the recommendation the Study Commission proposes for voters' consideration. For more details, see Appendix B.

C. Comparison of Specific Characteristics

Currently in Musselshell County, the Elected County Official form of government only allows for partisan elections. Partisan elections require those individuals running for office to run under a party name in the primary and general elections. Judicial officers are required to be non-partisan under state law. Non-partisan elections are not possible under the present form and still allow party affiliation information sharing, but does not require it.

Below is a table depicting the specific differences between the existing and proposed form:

Structural Characteristic	Existing Form	Proposed Form	Study Commission's Comments
Governing Authority	General	General	
Commission Size	3	3	
Election District	At Large	At Large	
Elections	Partisan	Non-partisan	Recommends Non-Partisan Elections
Term Arrangement	Overlapping	Overlapping	
Term Length (Commission)	6 years	6 years	
Administrative Assistant	Allowed	Allowed	Recommends hiring an Assistant
Community Councils	Allowed	Allowed	

D. Recommendations and Reasons

The first responsibility of the study commission was to study and evaluate the present form of government, the second was to compare the existing form with alternative forms available, and then to decide whether or not to offer an alternative to the voters. The decision of the Musselshell County Government Study Commission is to recommend:

A shift to non-partisan elections:

There was strong community interest in changing from partisan to non-partisan elections.

Proponent of non-partisan elections prefer this framework based on the following reasoning:

- a) voters are able to choose their officials based on qualifications and their stance on issues (voter decision process is less likely to be biased by party affiliation),
- b) political parties are irrelevant to providing services, and
- c) cooperation between elected officials belonging to different parties is more likely.

IV. APPENDICES

APPENDIX A

CERTIFICATE

ESTABLISHING THE EXISTING PLAN GOVERNMENT FOR MUSSELSHELL COUNTY

If retained by the voters, the government of Musselshell County shall be organized under the following provisions of 7-3-111, Montana Code Annotated (MCA) which authorizes the Elected County Official form of government. The MCA can be found online at:

<http://www.leg.mt.gov/bills/mca/7/3/7-3-111.htm>.

7-3-111. Statutory basis for elected county official government. (1) For the purpose of determining the statutory basis of existing units of local government after May 2, 1977, each unit of local government organized under the general statutes authorizing the Elected County Official form of government shall be governed by the following sections:

(a) **7-3-401 Commission form.** The commission form consists of an elected commission (which may also be called the council) and other elected officers as provided in this part. All legislative, executive, and administrative powers and duties of the local government not specifically reserved by law or ordinance to other elected officers shall reside in the commission. The commission shall appoint the heads of departments and other employees, except for those appointed by other elected officials. Cities and towns which adopt this form may distribute by ordinance the executive and administrative powers and duties into departments headed by individual commissioners;

(b) **7-3-402 Nature of government.** Local governments that adopt this form shall have general government powers;

(c) **7-3-412(3) Selection of commission members.** The commission shall be: elected at large and nominated by a plan of nomination that may not preclude the possibility of the majority of the electors nominating candidates for the majority of the seats on the commission from persons residing in the district or districts where the majority of the electors reside;

(d) **7-3-413(1) Type of election.** Local government elections shall be conducted on a partisan basis;

(e) **7-3-414(1) Presiding officer of commission.** The presiding officer of the commission must be elected by the members of the commission from their own number for a term established by ordinance;

(f) **7-3-415(2) Administrative assistants.** The commission may appoint one or more administrative assistants to assist them in the supervision and operation of the local government;

(g) **7-3-416(2) Terms of commission members.** Commission members shall be elected for overlapping terms of office;

(h) **7-3-417(2) Size of commission and community councils.** The size of the commission, which shall be a number not less than three, shall be established when the form is adopted by the voters, and community councils to advise commissioners may be authorized by ordinance;

APPENDIX A (Continued)

(i) 7-3-418 **Terms of elected officials.** The term of office of elected officials may not exceed 4 years, except the term of office for commissioners in counties adopting the form authorized by Article XI, section 3(2), of the Montana constitution may not exceed 6 years. Terms of office shall be established when the form is adopted by the voters;

(j) 7-3-432(1) **Legal officer.** A legal officer who may be called the county attorney may be elected;

(k) 7-3-433(1) **Law enforcement officer.** A law enforcement officer (sheriff) may be elected;

(l) 7-3-434(1) **Clerk and recorder.** A clerk and recorder may be elected;

(m) 7-3-435(1) **Clerk of district court.** A clerk of district court may be elected;

(n) 7-3-436(1) **Treasurer.** A treasurer may be elected;

(o) 7-3-437(1) **Surveyor.** A surveyor may be elected, **but was consolidated with Clerk and Recorder pursuant to 7-4-2301 MCA;**

(p) 7-3-438(1) **Superintendent of schools.** A superintendent of schools may be elected, **but was consolidated with Treasurer pursuant to 7-4-2301 MCA;**

(q) 7-3-439(1) **Assessor.** An assessor may be elected, **but was consolidated with Treasurer pursuant to 7-4-2301 MCA;**

(r) 7-3-440(1) **Coroner.** A coroner may be elected, **but was consolidated with Sheriff pursuant to 7-4-2301 MCA;**

(s) 7-3-441(1) **Public administrator.** A public administrator may be elected;

(t) 7-3-442(1) **Auditor.** If the county has elected an auditor (**does not apply**); and

(u) 7-3-442(6) **Auditor.** If the county has not elected an auditor (**office not required, 7-6-2401 MCA**).

(2) This form has terms of 4 years for all elected officials except commissioners who are elected to 6-year terms. The commission consists of three members.

We, the Study Commissioners of Musselshell County do hereby certify that this is the Existing Plan of Government as established by Section 7-3-111, MCA.

In testimony whereof, we set our hands.

Done at Musselshell County Court House this 15TH day of August 2016.

SEAL

ATTEST:

Chief Tomassie
Musselshell County Clerk

Sue M. Olson
Deborah Adolph
ky

Local Government Study Commissioners

APPENDIX B

CERTIFICATE ESTABLISHING THE PROPOSED PLAN OF GOVERNMENT FOR MUSSELSHELL COUNTY

If retained by the voters, the government of Musselshell County shall be organized under the provisions of 7-3-401 through 7-3-442 and 7-4-2301 MCA, which set forth the options for the COMMISSION FORM of GOVERNMENT and authorizes the consolidation of elected offices.

These sections establish the Plan of Government for the Commission form of government for Musselshell County.

(a) 7-3-401 **Commission form.** The commission form consists of an elected commission (which may also be called the council) and other elected officers as provided in this part. All legislative, executive, and administrative powers and duties of the local government not specifically reserved by law or ordinance to other elected officers shall reside in the commission. The commission shall appoint the heads of departments and other employees, except for those appointed by other elected officials. Cities and towns which adopt this form may distribute by ordinance the executive and administrative powers and duties into departments headed by individual commissioners.

(b) 7-3-402 **Nature of government.** Local governments that adopt this form shall have general government powers.

(c) 7-3-403 **Role of presiding officer of commission.** The presiding officer of the commission may be referred to as the mayor. All members of boards and committees must be appointed by the presiding officer with the consent of the commission. The presiding officer must be recognized as the head of the local government unit and may vote as other members of the commission.

(d) 7-3-412(3) **Selection of commission members.** The commission shall be elected at large and nominated by a plan of nomination that may not preclude the possibility of the majority of the electors nominating candidates for the majority of the seats on the commission from persons residing in the district or districts where the majority of the electors reside.

(e) 7-3-413(2) **Type of election.** Local government elections shall be conducted on a nonpartisan basis **(if approved by the voters as proposed by the Musselshell County Study Commission).**

(f) 7-3-414(1) **Presiding officer of commission.** The presiding officer of the commission must be elected by the members of the commission from their own number for a term established by ordinance.

(g) 7-3-415(2) **7-3-415. Administrative assistants.** The commission may appoint one or more administrative assistants to assist them in the supervision and operation of the local government.

(h) 7-3-416(2) **Terms of commission members.** Commission members shall be elected for overlapping terms of office.

(i) 7-3-417(2) **Size of commission and community councils.** The size of the commission, which shall be a number not less than three, shall be established when the form is adopted by the voters, and community councils to advise commissioners may be authorized by ordinance.

APPENDIX B (Continued)

(j) 7-3-418 Terms of elected officials. The term of office of elected officials may not exceed 4 years, except the term of office for commissioners in counties adopting the form authorized by Article XI, section 3(2), of the Montana constitution may not exceed 6 years. Terms of office shall be established when the form is adopted by the voters.

(k) 7-3-432(1) Legal officer. A legal officer, who may be called the county attorney, may be elected.

(l) 7-3-433(1) Law enforcement officer. A law enforcement officer, who may be called the sheriff may be elected.

(m) 7-3-434(1) Clerk and recorder. A clerk and recorder may be elected.

(n) 7-3-435(1) Clerk of district court. A clerk of district court may be elected.

(o) 7-3-436(1) Treasurer. A treasurer may be elected.

(p) 7-3-437(1) Surveyor. A surveyor may be elected, **but was consolidated with Clerk and Recorder pursuant to 7-4-2301 MCA;**

(q) 7-3-438(1) Superintendent of schools. A superintendent of schools may be elected, **but was consolidated with Treasurer pursuant to 7-4-2301 MCA.**

(r) 7-3-439(1) Assessor. An assessor may be elected, **but was consolidated with Treasurer, 7-4-2301 MCA.**

(s) 7-3-440(1) Coroner. A coroner may be elected, **but was consolidated with Sheriff, 7-4-2301 MCA.**

(t) 7-3-441(1) Public administrator. A public administrator may be elected.

(u) 7-3-442(6) Auditor. An auditor may not be included in this form as a separate office.

(v) 7-4-2301 Authorization to consolidate county offices. (1) Except as provided in subsection (2), the board of county commissioners of any county may in its discretion consolidate any two or more of the offices named in 7-4-2203 and combine the powers and the duties of the consolidated offices. (2) The office of the justice of the peace may not be combined or consolidated with any other office other than another justice of the peace office.

We, the Study Commissioners of Musselshell County do hereby certify that this is proposed plan of government approved by the Study Commissioners of Musselshell County.

In testimony whereof, we set our hands.

Done at Musselshell County Court House, this 13th day of August 2016.

See m. Olson
Deborah Pedoph
by

SEAL

ATTEST:

Cheryl Tomasse
Musselshell County Clerk

Local Government Study Commissioners

APPENDIX C

**CERTIFICATE
ESTABLISHING THE DATE OF THE SPECIAL ELECTION
AT WHICH THE PROPOSED PLAN OF GOVERNMENT SHALL BE PRESENTED
TO THE ELECTORS OF MUSSELHELL COUNTY
AND
ESTABLISHING THE EFFECTIVE DATE OF THE PROPOSAL IF APPROVED**

The plan of government proposed by the Local Government Study Commission shall be submitted to the voters of Musselshell County at a special election to be held with the general election on November 8, 2016.

The effective date of the alternative plan of local government of Musselshell County takes effect at 9 am, January 1, 2017.

We, the Study Commissioners of Musselshell County do hereby certify that these are the dates of the special election and the effective date of the alternative plan of local government of Musselshell County approved by the Study Commissioners of Musselshell County.

In testimony whereof, we set our hands.

Done at Musselshell County Court House, this 15th August day of 2016.

Sue M. Olson
Deborah Adolph
UF

Local Government Study Commissioners

SEAL

ATTEST:

Cheryl Tomassi
Musselshell County Clerk

APPENDIX D
CERTIFICATE
ESTABLISHING THE OFFICIAL BALLOT FOR
THE NOVEMBER 8, 2016 SPECIAL ELECTION

Instructions to voters: Place an "X" in the box which expresses your preference.

OFFICIAL BALLOT
BALLOT ON THE PROPOSED PLAN OF MUSSELHELL COUNTY GOVERNMENT

Vote for One:

____ FOR adoption of the COMMISSION FORM OF GOVERNMENT with NON-PARTISAN ELECTIONS proposed for Musselshell County by the Musselshell County Study Commission.

____ FOR the existing form of government with partisan elections.

We, the Study Commissioners of Musselshell County do hereby certify that this is the official ballot approved by the Study Commissioners of Musselshell County.

In testimony whereof, we set our hands.

Done at Musselshell County Court House, this 15th August day of 2016.

Sue M. Olson
Deborah Delap
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Local Government Study Commissioners

SEAL

ATTEST: Cheryl Tomasi
Musselshell County Clerk